

REMARKS

In response to the above-identified Office Action, Applicant amends the application and seeks reconsideration thereof. In this response, no claims are amended, no claims are canceled and no claims are added. Applicant does not cancel any claims or add any new claims. Accordingly, Claims 1-21 are pending.

I. Claims Rejected Under 35 U.S.C. § 103(a)

Claims 1-22 stand rejected under 35 U.S.C. § 103(a) as being obvious over an article "Layer-3 Switching Virtual Network Port: An Inter-network Switching Framework " authored by Vuppala, et al., ("Vuppala") in view of a white paper "Virtual Trunking and Traffic Shaping on BPX 8600 Series" published by Cisco Systems ("Virtual Trunking"). Applicant traverses this rejection.

To establish a *prima facie* case of obviousness, the Examiner must show the cited references, combined, teach or suggest each of the elements of a claim. With respect to Claim 1, Claim 1 claims a flow manager. Applicant respectfully submits that contrary to the Examiner's assertion Vuppala fails to teach the flow manager. This discussion is deferred to the remarks in relation to Claims 2 and 3 below. However, the Examiner admits that Vuppala fails to teach or suggest a remote logical port model to model a remote physical port as claimed in Claim 1. Therefore relies on Virtual Trunking for this element.

Applicant respectfully submits that Virtual Trunking fails to teach or suggest a remote logical port model to model a remote physical port. The Examiner has directed Applicant's attention to page 7 and figure 6 of Virtual Trunking. However, after careful review of this section, Applicant is unable to find any teaching or suggestion of a remote logical port model to model a remote physical port as claimed. While Applicant notes that Virtual Trunking states that "traffic shaping at the VC level for each

individual VCC is for fair bandwidth sharing and for matching the receiving speeds to the remote CPE equipment” this fails to teach or suggest the remote logical port model is present. Moreover, within the context of the rest of Virtual Trunking which sets forth the possible transfer rates of CBR, ABR and VBR, the case for modeling is even further weakened as the transfer rates appear to be established in advance and are independent of the actual activity of the remote physical port.

In view of at least the absence in the references of a remote logical port model as claimed, it is respectfully submitted that the rejection under 35 U.S.C. § 103 of Claim 1 should be withdrawn.

With respect to Claims 2 and 3, the absence of flow manager in Vuppala becomes even clearer. Both Claims 2 and 3 further define the flow manager as including a flow parameter database. For this teaching, the Examiner points to a reference to a topology database at the end of Vuppala. However, topology database neither explicitly nor inherently teaches a flow parameter database. A topology database merely sets forth constituents of a network topology in which Vuppala's VNP control procedure may operate. The absence of at least the flow parameter database of either reference under Claims 2 and 3 independently patentable. Accordingly, it is respectfully requested that the rejection of these claims be withdrawn.

With respect to Claim 5, the Examiner has pointed again to the passing reference to the topology database as reflective of the RLP data structure. The Examiner further points to paragraphs 3 and 4 of page 646 of Vuppala for the RLP traffic shaper to make a transmission unit eligible consistent with the characteristics of the RPP. Applicant has reviewed this section and has found nothing that ties the remote logical port traffic shaping with characteristics of the RPP as claimed. It is respectfully submitted that this rejection should be withdrawn or the Examiner should particularly point out the aspects

of the invention are found in the reference. Applicant notes that in the action, the Examiner's rejection of Claim 6 appears to apply to Claim 5. Similarly, a number of the references appear to be to claims other than what they are. Applicant has tracked the language as to the claims in which it actually appears rather than what is indicated in the action.

As to Claim 7, accepting that there is one queue directed to each RPP. This fails to teach or suggest that the traffic shaping and scheduling is performed by manipulating pointers to queues. Again the Examiner points to the same paragraph as relied on for a number of the other rejections. However, Applicant submits that that passage simply does not support the rejection.

The remaining claims, which depend from Claim 1, are at least patentable as dependent on a patentable independent claim.

With respect to Claim 11, Applicant respectfully submits that even accepting, solely for the sake of argument, all of the Examiner's contentions set forth in the action, there is no teaching or suggestion in either reference of two-tier hierarchy of shaping and scheduling as claimed. The Examiner had admitted that the element is absent from Vuppala and has not pointed to its existence in Virtual Trunking. Applicant has closely reviewed Virtual Trunking and found this element lacking. For at least this reason, Claim 11 as dependent claims are patentable over the references of record. It is respectfully requested that the rejection be withdrawn.

With respect to Claim 12, the explicit claim of first and second flow shaper and first scheduler and trunk scheduler are absent from the references. The Examiner asserts that these aspects are taught by the control procedures for Vuppala. However, there is no teaching or suggestion of a first and second shaping in this context nor is there a distinction between a first scheduler and a trunk scheduler as claimed.

Accordingly, the rejection of Claim 12 should be independently withdrawn. Analogous arguments to those presented above apply to the remaining claims dependent from Claim 11.

With respect to independent Claim 16 and its dependent claims, analogous arguments to those presented above apply. Withdrawal of the outstanding rejections as to all pending claims is respectively requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

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CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope with sufficient postage addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on June 9, 2005.

Susan M. Barrette 6/9/05
Susan M. Barrette Date